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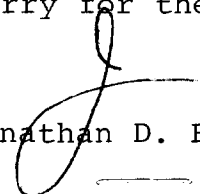
June 7, 1991

Mr. William F. Caton
Office of the FCC Secretary

Re: Gen. Docket 87-268 ✓

Dear Mr. Caton:

Per our telcon, enclosed are copies of MSTV's April 12 letter referred to in the June 6 letter together with a copy of our April 22 filing letter. The problem appears to be a typo in the docket number shown on the April 22 letter; it should have been directed to 87-268 as the June 6 letter properly indicated. Sorry for the confusion.


Jonathan D. Blake

Enclosures

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JUN - 7 1991

April 22, 1991

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Mr. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Gen. Docket No. 87-267;
Ex Parte Communication

RECEIVED
APR 22 '91
FEDERAL COMMUNICATIONS
COMMISSION
OFFICE OF THE
SECRETARY

Dear Ms. Searcy:

Please associate with the above-captioned docket file, two copies of the attached information concerning an ex parte contact with the Chairman on behalf of the Association for Maximum Service Television (MSTV). Substantially the same information was also conveyed to the Chairman, the other Commissioners and members of their staffs and the staffs of the Mass Media Bureau, Office of Engineering and Technology and General Counsel's Office in meetings on March 6-7 and 18-20, 1991, on behalf of MSTV by Margita White, Julian Shepard, Victor Tawil, Jonathan Blake and the undersigned.

Sincerely yours,


Gregory M. Schmidt



ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.

April 12, 1991

1400 16th Street NW
Suite 610
Washington, DC 20036Tel (202) 462-4351
FAX (202) 462-5335Margita E. White,
PresidentThe Honorable Alfred C. Sikes
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

RECEIVED

JUN 7 - 1991

Dear Al:

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Following up on the suggestion that arose out of the meeting that Jon Blake and I had with you and your staff on Friday, March 29, about HDTV assignment issues, I am enclosing a suggested list of issues that we believe are ripe to be addressed in a Further Notice of Proposed Rulemaking in the ATV Inquiry. As the four of us discussed at that meeting, this Further Notice would be a first step prior to the HDTV proceeding's final phase of selecting an HDTV standard and establishing a table of HDTV channel assignments.

We hope these suggestions will be useful. We would be pleased, of course, to discuss them with you and the staff. Indeed, we are confident that the staff will propose various helpful additions and modifications.

Best regards.

Sincerely,

A handwritten signature in cursive script that reads "Margita".

Margita E. White

MW:pm

Enclosure

April 12, 1991

MEMORANDUM

The Commission should issue a Further Notice of Proposed Rulemaking in the ATV Inquiry. The Further Notice should aim to accomplish three things. First, it should lay out the procedure to be followed in bringing the ATV proceeding to a resolution. Second, it should set forth the Commission's tentative resolution of certain key remaining issues that are not contingent upon the outcome of system testing. Third, it should invite comment on still other issues as to which the Commission has not yet formed a position.

I.

The Further Notice should explain that the Commission intends to issue a table of ATV assignments at the same time and in the same proceeding as it adopts ATV standards but that the Commission cannot specify particular ATV assignments until the results of the ATV testing are available. The reason for seeking to issue one Report and Order on both standards and assignments is to prevent broadcasters from being, uniquely among all the video media, held back from offering ATV.

Accordingly, this Further Notice should explain that the Commission intends to resolve the assignment issues in a two-step process. In this first step, the Commission will adopt certain basic assignment principles from which it will

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build an assignment model. Then in the second step it will feed the test results into that model and put out for public comment the proposed specific assignment plan.

II.

The Further Notice would set forth certain principles that the Commission tentatively endorses, subject to notice and comment. These principles would include the following:

-- The ATV allotment plan should replicate the Commission's existing table of allotments for NTSC channels.

-- As a consequence, the ultimate Report and Order should contain a new Table of Allotments pairing new ATV channels with existing NTSC allotments, and more specifically assigning them to existing NTSC licensees and permittees.

-- The first priority should be to make ATV assignments to existing NTSC licensees, then to permittees, then to NTSC channels as to which there are pending applications. Among vacant, unapplied-for NTSC allotments, priority should be given to providing an ATV channel to NTSC vacant allotments that are reserved for noncommercial use.

-- The ATV assignments should be designed to provide coverage comparable to the interference-limited coverage areas of current NTSC stations. The assignments would be made to maximize ATV coverage to the American public and, if possible, equalize the technical coverage parameters of VHF and UHF ATV stations.

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-- The ATV assignment plan should make strong efforts to protect vacant noncommercial NTSC allotments. It also should seek to protect vacant commercial allotments, but that goal is a lower priority. The plan should not provide protection to LPTV and translator stations but will seek to assign different channels for these operations where existing channel usage is preempted by ATV channel assignments.

-- Assignments should be made to existing licensees and permittees at the sites where they currently operate or propose to operate.

-- Where ATV channels are to be assigned to existing licensees and permittees, the Ashbacker doctrine does not require that competing applications be entertained for the ATV channels. In the case of pending applications, the new ATV channel will be paired with the existing NTSC channel, and the eligible pool to receive a license for it will be the existing applicants for the NTSC channel.

-- To facilitate this process, the Commission should consider issuing an official list of all the licensees that would be eligible for an ATV assignment and the placement (geographic coordinates) for the new ATV assignments.

-- To create a stable target, the Commission should also "freeze" the current Table of Allotments nationwide, declining to accept or act upon proposals to add additional stations, at least until the comprehensive ATV Table is adopted.

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III.

The Notice should, in our view, also ask for comment on certain issues as to which the Commission will not have reached tentative conclusions. These issues include the following:

-- Since the proposed ATV assignment model will assign channels based on the specific location of existing NTSC stations in order to maximize overall service to the public, it will not by itself distribute ATV channels among existing licensees that are co-located. Should this process be done by lottery, bargaining among the existing licensees, or some other mechanism? What procedure should be adopted to allow post-assignment adjustments (e.g., ATV channel trading among existing NTSC licensees)?

-- In many of the larger markets no spectrum will be left over for any assignments other than those necessary to accommodate existing NTSC licensees. But in some markets, particularly smaller ones, additional assignments would be possible. Should this additional spectrum be reserved for applications for additional ATV stations, or should it be used for some other purpose?

-- How should "acceptable or adequate service" and "harmful interference" be defined in the ATV environment?

-- How should the Commission and the State Department initiate bilateral negotiations with Canada and Mexico over the revised ATV table of allotments? What role should the public play? (Note that in Docket No. 18261, the

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reallocation of channels 14-20 from broadcasting to land mobile was not coordinated in advance with Canada and Mexico and for this reason land mobile channels in the border region remain unused nearly twenty years later.)

-- Should channels 3 and 4 be utilized for ATV? Would such use conflict with use of those channels for cable converters and VCRs? Should cable and VCR use of channels 3 and 4 be phased out?

-- What are the implications of the 6 MHz ATV channels and channel compression technology developments for cable carriage of ATV signals and should the Commission alter its tentative conclusion not to mandate such carriage?

-- There are undoubtedly many other issues that should be added to this list.